

Pieces of Iowa's Past, published by the Iowa State Capitol Tour Guides weekly during the Legislative Session, features historical facts about Iowa, the Capitol, and the early workings of state government. All italicized text/block quotes in this document are taken directly from historical publications with the actual spelling, punctuation, and grammar retained.

Iowa Territorial Supreme Court Case of "Ralph"



**Thomas S. Wilson
Associate Justice
Iowa Territorial
Supreme Court**

The Case of "Ralph" is one of 10 cases published by the newly formed Territorial Supreme Court of Iowa in 1839.

Jordan Montgomery from Missouri and his slave, Ralph (birth name: Rafe Nelson), had a written agreement in 1834 that allowed Ralph to leave Missouri and come to Iowa. Ralph agreed to pay \$550 plus interest* for his freedom.

Ralph worked in the lead mines in Dubuque, but after a few years he had not been able to earn enough to buy his freedom.

Montgomery had run into financial problems. Two Virginia bounty hunters who were working in Dubuque contacted Montgomery and offered to return Ralph to him in Missouri for a fee of \$100. Montgomery accepted the offer from the bounty hunters.

The Virginians swore an affidavit in front of a justice of the peace, and the court ordered the local sheriff to assist them. They found Ralph at his claim, handcuffed him, loaded him in a wagon, and started for the riverboat about 20



**Memorial stone at
Ralph Montgomery's
gravesite.**

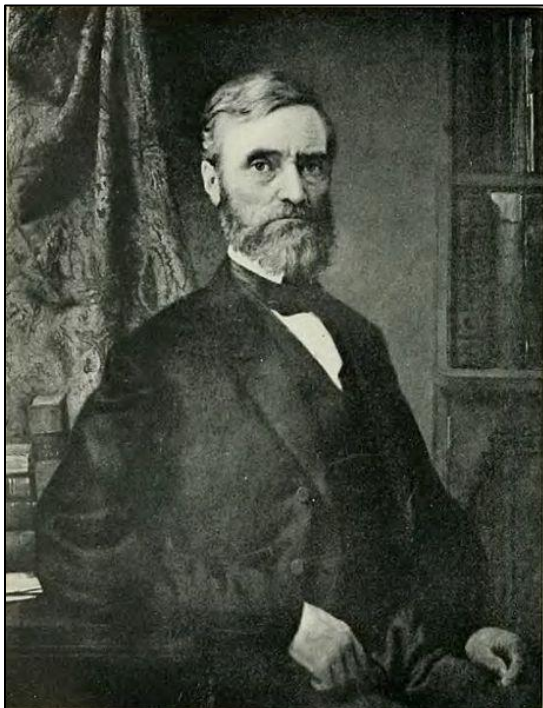
miles downriver at Bellevue. A farmer, Alexander Butterworth, saw Ralph being taken and reported it to Thomas Wilson, an Associate Justice on the Iowa Territorial Supreme Court.

Justice Wilson wrote out an order for the sheriff to go to Bellevue and return Ralph to Dubuque. The Supreme Court of the Territory of Iowa's first [case](#) would be "In the matter of Ralph, on Habeas Corpus."

The Supreme Court ruled that Ralph should be discharged from all custody and constraint and be permitted to go free while he remained under the protection of Iowa laws. The court conceded that Ralph should pay the amount initially agreed to but stipulated that "non-payment could not reduce a man to slavery in this territory."

* In Chief Justice Mason's ruling, he stated the amount Ralph agreed to pay for his freedom was "\$500 with interest," but in numerous other articles written on the case of "Ralph," the amount mentioned is \$550 *plus* interest.

Chief Justice Charles Mason's Report



**Charles Mason
Chief Justice
Iowa Territorial Supreme Court**

This case does not come before us in any of the ordinary methods of application to an appellate court, so that it is, perhaps, not strictly regular for us to entertain jurisdiction of it at all. As, however, it involves an important question, which may ere long, if unsettled, become an exciting one, and as it is by the mutual assent and request of all the parties interested, we concluded to listen to the argument, and make a decision in the case without intending it as a precedent for the future practice of this court.

The petitioner, a colored man, who was claimed as a slave before the justice of the peace, and who was about to have been delivered up accordingly, asserts that he is free. If this be actually the case, the writ of *habeas corpus* was properly brought, being the only means by which the judge of the District Court could exercise a remedial control over the illegal acts of justices of the peace, in cases like this. The proceedings having been transferred to this court, it will be proper for us to make such a disposition of the matter as might

have been made by the district judge while the subject was before him.

The claimant asks that the petitioner be restored to him as a slave, and principally for the following reasons: In the first place, that, by the act of congress of 1820, which authorized the people of Missouri to form a constitution and state government, and which prohibited slavery in all that portion of the old Louisiana territory lying north of thirty-six degrees and thirty minutes of north latitude, not included within the then contemplated state, it is provided, "That any person escaping into the territory thus set apart, from whom labor or service is lawfully claimed in any state or territory of the United States, such fugitive may lawfully be reclaimed and conveyed to the person claiming his said labor or services." Under this provision, we are called upon to decide that the petitioner is a fugitive slave, because, although the master consented that he should come to this territory, and for aught that appears, remain here for four or five years, still there was an express stipulation that he should, at some future time, pay to his former master the sum of five hundred dollars, with interest; that, not having complied with this agreement, he is to be regarded as being here without permission, and, consequently, as having escaped into the territory.

Such a construction would introduce almost unqualified slavery into all the free states. The constitution of the United States contains a provision in relation to fugitive slaves, substantially the same as that embraced in the act of Congress above referred to; so that in this particular, all the free states of the Union are in the same predicament as this territory. Suppose, then, the southern master should permit his slave to emigrate to some of the free states, upon the express condition that he should remain forever the slave, or (which is the same thing) the submissive servant of some particular individual, his heirs and assigns. While he fulfils this agreement, he is a slave to his new master in the north, and as soon as he violates it he becomes again the slave of his old one at the South, who may, forthwith, reclaim him as a fugitive. We cannot countenance such a doctrine.

From the facts agreed upon in this case, it seems that the claimant permitted his slave to come to this territory. The permission seems to have been absolute; but there was also an understanding that the latter was to pay the former a certain amount, as the price of his freedom. How the failure to comply with this understanding could render a removal, undertaken with the master's consent, an escape, we are unable to comprehend. The petitioner is under the same obligation to fulfil this engagement as though, instead of its

being the price of his freedom, the debt had been incurred for the purchase of any other species of property. It is a debt which he ought to pay, but for the non-payment of which no man in this territory can be reduced to slavery.

We did not say there can be no escape where the slave goes to a free state by the consent of the master: If sent upon an errand, or traveling in company with his master he should refuse to return, he might probably be regarded as a fugitive. But this certainly cannot be the case where the journey was undertaken with the understanding of all parties that the slave was going to become a permanent resident of the free state or territory.

But it is contended, on the part of the claimant, that slavery is not prohibited in this territory; that the act of 1820, above mentioned, is a mere naked declaration, requiring further legislation to render it operative, that it merely imposes a duty on the states and territories to be formed within the prescribed limits, but that, without further action on the subject the law has no sanction, and, consequently, no force. This position, we think, cannot be maintained. Congress possesses the supreme power of legislation in relation to the territories, and its right to prohibit slavery, at least in relation to slaves subsequently introduced, is doubtless legitimate. Has that right been exercised in relation to this territory? The language of the act of 1820, in relation to the district of country in which this territory is embraced is, that slavery therein "shall be, and is hereby forever prohibited." This seems to us an entire and final prohibition, not looking to future legislative action to render it effectual.

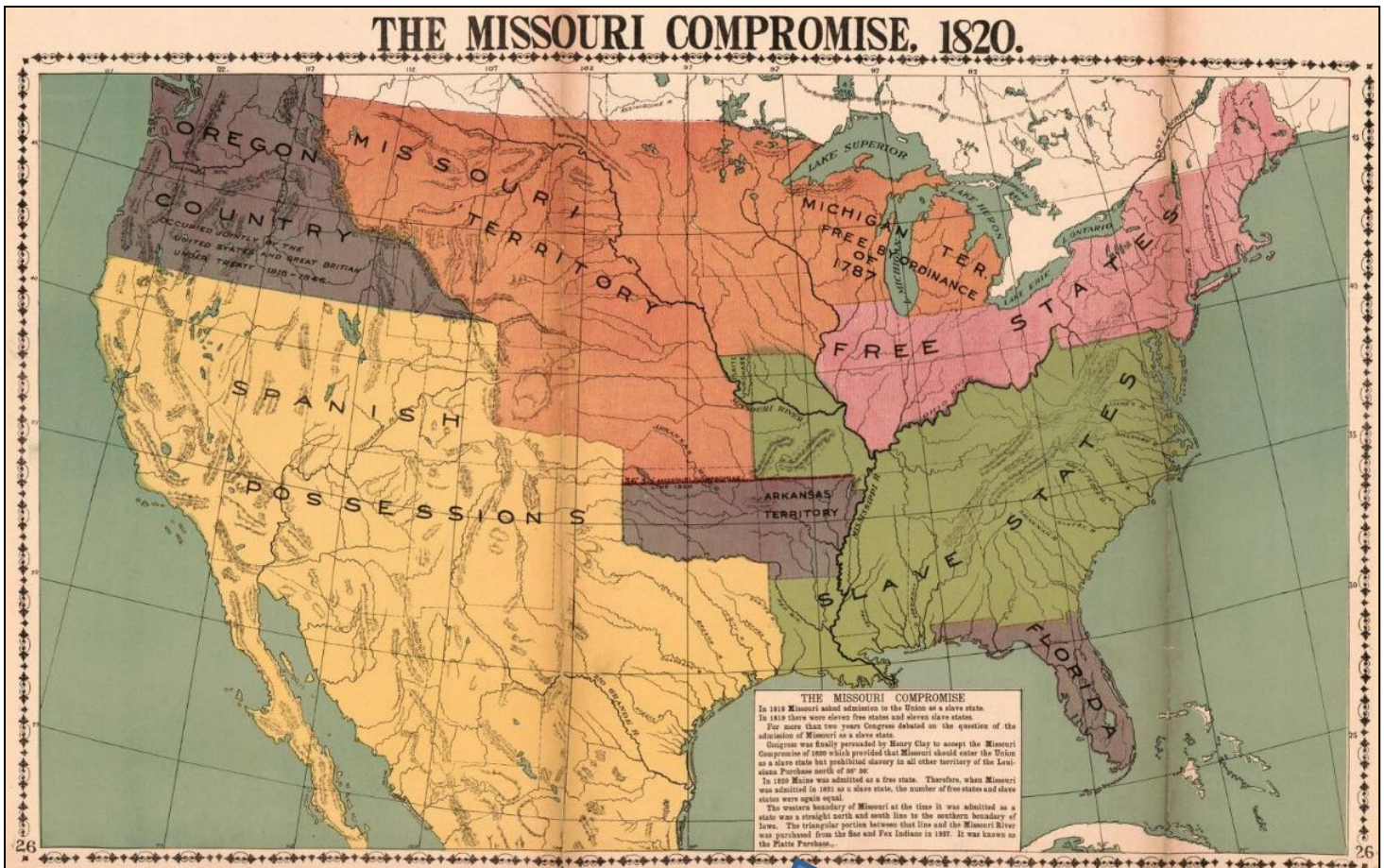
But it is said that, although the act may prohibit slavery, it does not declare a forfeiture of slave property, and that the most which the law will authorize will be to require the master to remove that property out of the territory. It is true that the act thus mentioned does not in express terms, declare a forfeiture of slave property, but it does, in effect, declare that such property shall not exist.

The master who, subsequently to that act permits his slave to become a resident here, cannot afterward exercise any acts

of ownership over him within this territory. The law does not take away his property in express terms, but declares it no longer to be property at all. Of course those legal remedies, which can only be resorted to upon the presumption of a still subsisting ownership in the master, become altogether annihilated.

A wide difference exists between the present case and that supposed in the argument, of an act of the legislature prohibiting private banking. In the latter case the property invested in that traffic, in violation of the law, would not, in general, become forfeited. But suppose that instead of prohibiting the investment of property in private banks, the act should declare that property so invested should cease to be the subject of property at all (and suppose a physical capability in the law to carry out that declaration), could the former owner, after such investment, invoke the aid of the laws to restore him what had once been his, but which was now, like the air, rendered incapable of being appropriated by any one? Such is precisely the state of things in the case now before us. Property, in the slave, cannot exist without the existence of slavery; the prohibition of the latter annihilates the former, and, this being destroyed, he becomes free.

Could the claimant, in this case, retain the custody and control of the petitioner without invoking the aid of our laws, and without their violation, we certainly should not interfere to prevent him. But, when he applies to our tribunals for the purpose of controlling, as property, that which our laws have declared shall not be property, it is incumbent on them to refuse their co-operation. When, in seeking to accomplish his object, he illegally restrains a human being of his liberty, it is proper that the laws, which should extend equal protection to men of all colors and conditions, should exert their remedial interposition. We think, therefore, that the petitioner should be discharged from all custody and constraint, and be permitted to go free while he remains under the protection of our laws.



THE MISSOURI COMPROMISE

In 1818 Missouri asked admission to the Union as a slave state.
In 1819 there were eleven free states and eleven slave states.
For more than two years Congress debated on the question of the admission of Missouri as a slave state.
Congress was finally persuaded by Henry Clay to accept the Missouri Compromise of 1820 which provided that Missouri should enter the Union as a slave state but prohibited slavery in all other territory of the Louisiana Purchase north of 36° 30'.
In 1820 Maine was admitted as a free state. Therefore, when Missouri was admitted in 1821 as a slave state, the number of free states and slave states were again equal.
The western boundary of Missouri at the time it was admitted as a state was a straight north and south line to the southern boundary of Iowa. The triangular portion between that line and the Missouri River was purchased from the Sac and Fox Indians in 1837. It was known as the Platte Purchase.

Ruling by Chief Justice Mason

Ordered that this court now adjourn till tomorrow 8 A.M.

Charles Mason
Chief Justice

Thursday morning July 4th 1839. Court met pursuant
to adjournment. Present, Charles Mason Chief Justice, and
Joseph Williams associate.
Jordan & Montgomery
vs
Ralph a man of Color

And now on this day, this
cause was submitted to the Court by consent, on a case of facts
stated and on file; and it appearing to the satisfaction of the
Court, on argument of Counsel, that the said Ralph a man
of color, is free by operation of Law; it is therefore ordered and
adjudged, that he be discharged from further duress and
restraint, and that he go hence without day

The committee appointed for the purpose of preparing
a set of rules for the government of the practice in this Court, reported,
which report was adopted, ordered to be spread upon the Record,
and copies thereof sent to each of Clerks of the District in the
several Counties in this Territory

Ordered that this Court now adjourn, Sine Die.

Charles Mason
Chief Justice



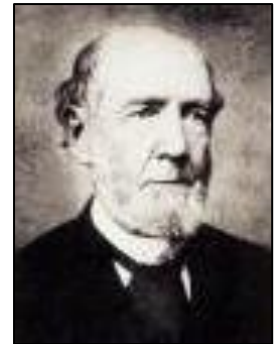
Charles Mason
Chief Justice
Iowa Territorial Supreme Court

Charles Mason served as the first Chief Justice from 1838 until he resigned in June 1847.

The first two Associate Justices were Joseph Williams and Thomas S. Wilson.



Joseph Williams
Associate Justice



Thomas S. Wilson
Associate Justice

Further Information:

[Past Justices](#)

Dennis Magee, [*"Iowa Supreme Court's first case freed a slave,"*](#) *Waterloo-Cedar Falls Courier*

Newspaper Article

Chicago Tribune.

July 28, 1870

RALPH MONTGOMERY.

Death of the Historical Negro, of Iowa—Sketch of His Life and Early Career.

From the Dubuque Times, July 24.

What man, woman or child, who has resided in Dubuque any length of time, but has met and conversed with that aged man, Ralph Montgomery, or as he was better known, "Old Rafe?" His tall, slim figure, his kinky locks literally besprinkled with gray, his benevolent, shining countenance, which seemed to be the abode of a perennial smile, and the kindly eye which had a look of recognition for all, will be seen upon our

streets no more, for "Old Rafe" has paid the debt of nature, and gone home. On Friday last, "Old Rafe" died in the pest house, of small-pox, having contracted the disease while nursing a sick patient. His remains, interred at the hands of charity, now lie in the Potter's Field.

The deceased was one of the old familiar human landmarks, one of the pioneers who was present at the birth and christening of our Key City: yea, whose feet trod these shores, and whose pick was resounding among the shining galena of the bluffs, before this region boasted of even a territorial organization.

"Although Ralph was very communicative and fond of relating his early history to all who inquired, yet, with advancing years, his memory grew treacherous, until it became almost impossible for him to relate a connected story in regard to his adventures without contradicting himself half a dozen times. He has, however, been called the historical negro of Iowa, from the fact that his case was the first one ever argued and determined by the Supreme Court of Iowa at the July term, 1859. At that time the Hon. Charles Mason was Chief Justice, and Joseph Williams and T. S. Wilson, Esq., of Dubuque, Associate Judges. Ralph being within this territory was claimed by his master in Missouri as his slave, and was delivered over by the authorities to be transported to that State. He was afterward brought before the Judge of the Third District on a writ of *habeas corpus*, from whence the proceedings were transferred to the Supreme Court on an agreed state of facts, setting forth that in 1834 Ralph being the slave of the claimant Montgomery, a written agreement was entered into between them, by which Ralph was permitted to come into this territory to reside, he on his part stipulating to pay his master the sum of \$550, with inter-

est, from the 1st of January, 1835, as the price of his freedom, and that having failed to comply with his contract of payment, he was reclaimed by his former master. The trial was held, and the result is well-known to all of our readers, the petitioner being discharged from all custody and restrained on the ground that the master, who subsequently to the passage of the Fugitive Slave Act, permitted his slave to become a resident here, could not afterwards exercise any acts of ownership.

over him within this territory. This was the test case that controlled all future decisions upon the subject, and has probably been quoted more than any other in the Northwest.

A few months ago our reporter "interviewed" Ralph, and learned from his own lips that he was born a slave in Virginia, but in what year he could not state. It must have been before 1800. His proper name was Rafe Nelson, but he soon after took his master's name, that of Ralph Montgomery, and has been known by that name ever since. While Ralph was yet an infant, his master removed to Kentucky, and there he was raised, until becoming quite a chunk of a field hand, he was sold to a brother of his master, Mr. William Montgomery. Ralph resided in Kentucky until he was twenty years of age or upwards, and was treated to plenty of hog and hominy under the direction of a kind and indulgent master. From Kentucky Ralph's master removed to Palmyra, Marion County, Mo., where he remained for about two years. Here Ralph met a white man named Ellis Schofield, who had but just returned from a trip to the upper Mississippi lead regions, and who related such glowing tales of boundless wealth to be acquired there that Ralph became seized with a burning desire to go and work out his own salvation. He proposed the thing to his master, and it was finally agreed between them that Ralph should be permitted his freedom at the figures already given, and so, strong of purpose and light of heart, he came to this region, and has remained here ever since. But little is known of his chequered fortunes at this day, but it is a matter of record that Ralph became a highly

successful miner, and discovered several valuable leads. Among the number was the famed McKenzie lead, which yielded millions of pounds of mineral, and resulted in mines of wealth. Ralph sold out his claim for a good figure, but being of an easy, confiding turn of mind, he permitted himself to be swindled out of it, and his latter years were passed in comparative poverty. During the last few years he was kept at the

County Poor House, an institution of which Ralph never spoke in terms of high regard. He said that the beef was poor, the coffee muddy, and the dishes dirty,—in short, he would be blessed if it wasn't the toughest "hole he ever seed." During the summer months Ralph resumed his mining, and nothing was more familiar than to see his clay suit moving up the street, ready attired for business. But he has put down his last shaft, and his pick will now forevermore be silent.

Shattering Silence and the Case of "Ralph"

The Shattering Silence Monument was dedicated October 22, 2009. This sculpture was designed to resemble shards of glass. [Shattering Silence](#) celebrates the tradition in Iowa's courts of ensuring the rights and liberties of all the people of the State. The story of Ralph is engraved around the base of the sculpture.



Photo by Gary Hoard Photography